

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

SENATE ENROLLED ACT No. 489

AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 16-22-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as otherwise provided in this article or in IC 16-12.1 (before its repeal on July 1, 1993), each hospital established under this article or IC 16-12.1 (before its repeal on July 1, 1993) must have a board of four (4) members, appointed by the county executive. ~~Not more than two (2) members may be of the same political party.~~ All four (4) members must be residents of the county in which the hospital is located and one (1) member may be a licensed physician who is a member of the medical staff of the hospital. When appointing a physician member, the county executive shall consider the recommendation of the medical staff of the hospital.

(b) The initial appointments made under this section are as follows:

- (1) One (1) member holds office for one (1) year.
- (2) One (1) member holds office for two (2) years.
- (3) One (1) member holds office for three (3) years.
- (4) One (1) member holds office for four (4) years.

(c) After the initial appointments, board members shall be appointed to serve terms of four (4) years.

(d) Except as provided in section 11 of this chapter, a vacancy on the board shall be filled by the county executive, and the appointee shall be appointed to complete the unexpired term of the member

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whose office has been vacated.

SECTION 2. IC 16-22-2-3.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.1. (a) This section applies to a hospital operated under IC 16-12-4-2 (before its repeal on July 1, 1993) that is located in a county having a population of more than ~~thirty-seven thousand (37,000) but less than thirty-seven thousand eight hundred (37,800)~~ **forty-one thousand (41,000) but less than forty-three thousand (43,000)**.

(b) The management of a hospital is under the control of a governing board. The governing board consists of nine (9) members appointed by the county executive as follows:

- (1) Three (3) members must be members of the county executive.
- (2) Six (6) members must be residents of the county, ~~and not more than three (3) members may be from the same political party~~.
- (1) member may be a licensed physician.

(c) The term of each member of the governing board is three (3) years.

(d) If a vacancy occurs due to the expiration of an appointed member's term and the county executive does not fill the vacancy within sixty (60) days from the date of expiration, the member whose term has expired is automatically reappointed for another term.

SECTION 3. IC 16-22-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) This section applies to county hospitals in counties having a population of more than eighteen thousand (18,000) but less than eighteen thousand three hundred (18,300).

(b) The hospital and the affairs and business of the hospital shall be under the management and control of a governing board consisting of seven (7) members as follows:

- (1) Three (3) members must be the members of the county executive.
- (2) Two (2) members shall be appointed by the county fiscal body, one (1) of whom may be a licensed physician.
- (3) Two (2) members shall be appointed by the county executive.

(c) One (1) of the members initially appointed by the county fiscal body serves for one (1) year and one (1) of the members initially appointed serves for two (2) years. After the initial appointment, the members serve for two (2) years. ~~The members appointed by the county council may not be affiliated with the same political party.~~

(d) One (1) of the members initially appointed by the county executive serves for one (1) year and one (1) of the members initially appointed serves for two (2) years. After the initial appointment, the

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members serve for two (2) years. ~~The members appointed by the county executive may not be affiliated with the same political party.~~

SECTION 4. IC 16-22-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) This section applies to hospitals established under Acts 1917, c.144, s.1.

(b) Except as provided in section 7 of this chapter, the management of the hospital shall be under the control of a governing board consisting of four (4) members appointed by the county executive. One (1) of the members may be a licensed physician. The members shall be chosen from the residents of the county. ~~Not more than two (2) of the members may be residents of the city or town in which the hospital is to be located; and not more than two (2) members may be of the same political party or belief.~~

(c) The initial terms of the members are as follows:

- (1) One (1) member has a term of one (1) year.
- (2) One (1) member has a term of two (2) years.
- (3) One (1) member has a term of three (3) years.
- (4) One (1) member has a term of four (4) years.

After the initial appointments, the members serve for four (4) years.

SECTION 5. IC 16-22-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Except as provided in subsection (d), a governing board of four (4) members in existence on September 2, 1971, may petition the county executive to increase the size of the board to five (5), six (6), seven (7), eight (8), or nine (9) members. If the county executive approves the petition, the county executive shall appoint new members to increase the number of board members to the chosen size in the following manner:

~~(1) If a board size of:~~

~~(A) five (5) or six (6) members is chosen; not more than three (3) members may be of the same political party;~~

~~(B) seven (7) or eight (8) members is chosen; not more than four (4) members may be of the same political party; and~~

~~(C) nine (9) members is chosen; not more than five (5) members may be of the same political party;~~

~~(2) (1) All members must be residents of the county in which the hospital is located.~~

~~(3) (2) If a board size of five (5) members is chosen, a new member shall be appointed for an initial term of one (1) year.~~

~~(4) (3) If a board size of six (6) members is chosen, the new members shall be appointed in the following order as necessary:~~

~~(A) One (1) new member for an initial term of one (1) year.~~

~~(B) One (1) new member for an initial term of two (2) years.~~

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~~(5)~~ (4) If a board size of seven (7) members is chosen, the new members shall be appointed in the following order as necessary:

- (A) One (1) new member for an initial term of one (1) year.
- (B) One (1) new member for an initial term of two (2) years.
- (C) One (1) new member for an initial term of three (3) years.

~~(6)~~ (5) If a board size of eight (8) members is chosen, the new members shall be appointed in the following order as necessary:

- (A) One (1) new member for an initial term of one (1) year.
- (B) One (1) new member for an initial term of two (2) years.
- (C) One (1) new member for an initial term of three (3) years.
- (D) One (1) new member for an initial term of four (4) years.

~~(7)~~ (6) If a board size of nine (9) members is chosen, the new members shall be appointed in the following order as necessary:

- (A) Two (2) new members for an initial term of one (1) year.
- (B) One (1) new member for an initial term of two (2) years.
- (C) One (1) new member for an initial term of three (3) years.
- (D) One (1) new member for an initial term of four (4) years.

~~(8)~~ (7) If a board size of seven (7), eight (8), or nine (9) members is chosen, two (2) members may be licensed physicians.

(b) A governing board that has increased its size may petition the county executive to decrease the size of the board. However, a decrease under this subsection may only be accomplished through:

- (1) the vacancy of a member's position, either through expiration of the member's term or any other cause; or
- (2) removal of a member as provided under applicable law.

(c) There is no limit to the number of times a governing board may seek to increase or decrease its size under this section.

(d) For a governing board of four (4) members located in a county having a population of:

- (1) more than ~~thirteen thousand (13,000)~~ but less than ~~thirteen thousand six hundred (13,600)~~; **fourteen thousand five hundred (14,500)** but less than **fourteen thousand nine hundred (14,900)**;
- (2) more than ~~twenty-three thousand (23,000)~~ but less than ~~twenty-three thousand five hundred (23,500)~~; **twenty-five thousand (25,000)** but less than **twenty-five thousand five hundred (25,500)**; or
- (3) more than ~~thirty thousand six hundred (30,600)~~ but less than ~~thirty-one thousand (31,000)~~; **thirty-three thousand eight hundred (33,800)** but less than **thirty-four thousand three hundred (34,300)**;

the county executive may increase the number of board members to



five (5), six (6), or seven (7), subject to the limitations of this section. After the initial appointments, each board member shall be appointed to serve for a term of four (4) years.

SECTION 6. IC 16-22-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) This section applies to a county where a city hospital is operated under IC 16-23-1.

(b) A county hospital may be created by an order of the county executive without filing a petition or holding an election.

(c) The county executive may create a hospital association under IC 16-22-6.

(d) An appointing board shall be formed to appoint the members of the governing board of the county hospital. The appointing board shall consist of three (3) members, as follows:

- (1) The executive of the city where the city hospital is located.
- (2) The judge of the circuit court of the county.
- (3) A member of the county executive chosen by the county executive of the county.

(e) Each member must take and subscribe an oath for the honest and faithful performance of the member's duties, which shall be filed in the auditor's office of the county.

(f) The governing board consists of seven (7) members with the following qualifications:

- (1) Each member must be a qualified voter in the county.
- ~~(2) Three (3) members must be residents of the city, and three (3) members must be residents of the county living outside the corporate limits of the city. The remaining member may reside either inside or outside the corporate limits of the city.~~
- ~~(3) Not more than four (4) members may belong to the same political party.~~
- ~~(4) At least one (1) member must, but~~ (2) Not more than two (2) members may be licensed physicians.
- ~~(5) (3) One (1) member must may~~ be a registered nurse licensed to practice in Indiana.

(g) Initial and subsequent appointments to the hospital board shall be made for staggered terms ending on February 1 to coincide with the terms of members of the city hospital board of directors created by IC 16-23-1.

(h) The appointing board members may serve without bond. The regular meeting of the appointing board for the appointment of members to the hospital board shall be on the third Monday in January of each year following the year of the initial appointments. The meeting may adjourn periodically until the appointments for all expired or



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vacant memberships are made. Vacancies occurring on the hospital board may be filled at a special meeting of the appointing board called by the county auditor or by two (2) members of the appointing board on five (5) days notice to all appointing board members, or without notice if all of the appointing board members are present at the meeting. Each meeting of the appointing board shall be held at the county executive's room of the county, unless by unanimous consent the board determines to hold the meeting at another location.

(i) The county executive shall choose the board's member of the appointing board each year following the year of initial appointments at the board's regular January meeting.

(j) The governing board may operate the county hospital jointly with the city hospital operated in the same county under IC 16-23-1. The joint operation may include joint employment of an administrator and other personnel, joint policies, joint purchases, joint services, and other programs to deliver health care at a reduced cost. The governing board of the county hospital may contract with the governing board of the city hospital to allocate revenues and expenditures and for the administration of the hospitals, but records must be kept that reflect the separate ownership, financial obligations, and existence of the county hospital and the city hospital.

SECTION 7. IC 16-22-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The governing board may purchase, construct, remodel, repair, enlarge, or acquire buildings and real or personal property for hospital purposes, upon terms and conditions acceptable to the board.

(b) The governing board may use hospital funds if adequate provision is made for working capital and other known and anticipated hospital needs.

(c) If the building or real property is located outside the county and in a county with a hospital organized or operated under this article (except IC 16-22-8) or IC 16-23, the board must receive the approval of the county executives of both the county in which the hospital is located and the county in which the building or real property is located.

(d) The approval under subsection (c) is not required if the building or real property is acquired by hospitals in the affected counties as participants in an organization or activity described under section 1(b) of this chapter or as participants in an arrangement in which at least two (2) hospitals participate for the provision of any hospital or related services, including participation or ownership as a tenant in common with other hospitals. All hospitals in the affected counties that are organized or operated under this article (except IC 16-22-8) or

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~~IC 16-23 are also participants.~~

SECTION 8. IC 16-22-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The state board of accounts:

- (1) shall approve or prescribe the manner in which the hospital records are kept;
- (2) **except as provided in subsection (c)**, shall audit the records of the hospital; and
- (3) may approve forms for use by all hospitals or groups of hospitals.

(b) The governing board may use the calendar year or a fiscal year for maintaining hospital financial records. A hospital that receives a financial subsidy from the county for hospital operations, excluding mental health or ambulance services, during the preceding calendar or fiscal year must file with the county executive and the county fiscal body an annual report showing the income and expenses of the operating fund for the preceding calendar or fiscal year by major classification according to the chart of accounts approved by the state board of accounts. If the hospital uses a calendar year for maintaining financial records, the report must be filed not later than the last Monday in March of each year. If the hospital uses a fiscal year for maintaining financial records, the report must be filed not later than ninety (90) days after the close of the fiscal year. The annual report shall be published one (1) time. Hospital financial records may be kept in hard copy, on microfilm, or via another data system acceptable to the state board of accounts.

(c) A hospital may elect to have an audit required under subsection (a) performed by an independent certified public accounting firm that is experienced in hospital matters. The audit report must be kept on file at the hospital and a copy must be provided to the state board of accounts. The audit engagement by a certified public accounting firm must be performed pursuant to guidelines established by the state board of accounts.

(d) If a hospital elects to use an independent certified public accounting firm under subsection (c), the hospital shall provide written notice to the state board of accounts not less than one hundred eighty (180) days before the beginning of the hospital's fiscal year in which the hospital elects to be audited by an independent certified public accounting firm. For that hospital fiscal year, and each following fiscal year until the hospital terminates the hospital's use of an independent certified public accounting firm, the hospital shall use an independent certified



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public accounting firm under subsection (c). A hospital shall terminate its use of an independent certified public accounting firm under subsection (c) by providing written notice to the state board of accounts not less than one hundred eighty (180) days before the beginning of the hospital's fiscal year in which the hospital elects not to be audited by an independent certified public accounting firm. For that hospital fiscal year, and each following fiscal year until the hospital elects to use an independent certified public accounting firm as provided under this subsection, the hospital must be audited by the state board of accounts for purposes of section 12(a)(2) of this chapter. For any fiscal year in which the hospital does not use an independent certified public accounting firm under subsection (c), the hospital shall be audited by the state board of accounts.

SECTION 9. IC 16-22-3-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) The governing board may contract for and purchase, for the protection of the hospital, all types of insurance provided for in the Indiana insurance law in amounts and under terms and conditions the board considers reasonable and necessary. The insurance may include liability or malpractice coverage for the members of the board, the officers, employees, volunteers, and members of medical staff committees while performing services for the hospital. The board may, for the purpose of acquiring malpractice coverage, assist in the formation of a nonassessable mutual insurance company under IC 27-1-6 and IC 27-1-7-19.

(b) The governing board of a hospital organized or operated under this article may enter into a group purchasing agreement to purchase medical malpractice insurance with the following:

(1) One (1) or more hospitals organized or operated under this article.

(2) One (1) or more hospitals organized or operated under IC 16-23.

SECTION 10. IC 16-22-3-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) The governing board may enter into agreements with credit card companies or organizations authorized to do business in Indiana and may accept credit card payments from patients for services provided.

(b) The board may, in the establishment and maintenance of hospital records, use automated data processing systems and purchase, lease, operate, or contract for the use of automated data processing equipment subject to section 6 of this chapter and section 22 of this chapter.



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(c) In addition to IC 5-14-1.5-6.1(b), a hospital organized or operated under this article ~~or IC 16-23-1~~ may hold executive sessions to do any of the following:

- (1) Discuss and prepare bids, proposals, or arrangements that will be competitively awarded among health care providers.
- (2) Discuss recruitment of health care providers.
- (3) Discuss and prepare competitive marketing strategies.
- (4) Engage in strategic planning.
- (5) Participate in a motivational retreat with staff or personnel, if the hospital does not conduct any official action (as defined in IC 5-14-1.5-2(d)).

(d) IC 5-14-1.5-5, IC 5-14-1.5-6.1, and IC 5-14-1.5-7 apply to executive sessions held under subsection (c).

(e) A hospital organized or operated under this article ~~or under IC 16-23-1~~ may hold confidential, until the information contained in the records is announced to the public, records of a proprietary nature that if revealed would place the hospital at a competitive disadvantage, such as the following:

- (1) Terms and conditions of preferred provider arrangements.
- (2) Health care provider recruitment plans.
- (3) Competitive marketing strategies regarding new services and locations.

SECTION 11. IC 16-22-8-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6.5. (a) In addition to IC 5-14-1.5-6.1(b), the corporation may hold executive sessions concerning the division of public hospitals to do any of the following:**

- (1) Discuss and prepare bids, proposals, or arrangements that will be competitively awarded among health care providers.**
- (2) Discuss recruitment of health care providers.**
- (3) Discuss and prepare competitive marketing strategies.**
- (4) Engage in strategic planning.**
- (5) Participate in a motivational retreat with staff or personnel if the corporation does not conduct any official action (as defined in IC 5-14-1.5-2(d)).**

(b) IC 5-14-1.5-5, IC 5-14-1.5-6.1, and IC 5-14-1.5-7 apply to executive sessions held under subsection (a).

(c) The corporation may hold confidential, until the information contained in the records is announced to the public, records of a proprietary nature that if revealed would place the corporation at a competitive disadvantage, including the following:

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- (1) Terms and conditions of preferred provider arrangements.
- (2) Health care provider recruitment plans.
- (3) Competitive marketing strategies regarding new services and locations.

SECTION 12. IC 16-22-8-34.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 34.5. The governing board of the corporation may enter into a group purchasing agreement to purchase medical malpractice insurance with the following:**

- (1) **One (1) or more hospitals organized or operated under this article.**
- (2) **One (1) or more hospitals organized or operated under IC 16-23.**

SECTION 13. IC 16-22-8-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 39. (a) A hospital owned, operated, or managed by the corporation shall be for the benefit of the residents of the county and of every person who becomes sick, injured, or maimed within the county.**

(b) A patient who is able to pay shall pay to the corporation a reasonable compensation for medicine or hospital services according to the rules prescribed by the board. The board or the board's authorized representative may exclude from the hospital a person who willfully violates the rules. The board may extend the privileges and use of the hospital, the corporation's health care programs, and health care facilities, including nursing facilities owned or operated by the corporation, to persons residing outside of the county on terms and conditions the board prescribes.

(c) There may not be discrimination against practitioners of any school of medicine holding unlimited licenses to practice medicine recognized in Indiana. The licensed practitioners are entitled to equal privileges in treating patients in the hospital.

SECTION 14. IC 16-22-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1. This chapter applies to a nonprofit hospital corporation that meets the following conditions:**

- (1) Is established in or within one (1) mile of a city.
- (2) Has articles of incorporation or a constitution or bylaws that provide the following:
 - (A) The incorporators shall be the first board of trustees, which is the sole governing board, and which elects successors at stated periods from reputable citizens of the city and vicinity who meet the following conditions:



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- (i) Include one (1) licensed physician.
 - (ii) Are persons interested in the benevolent work of the hospital, chosen without reference to political or sectarian influence.
 - (iii) Receive no compensation for services.
- (B) The corporation's general corporate powers will be exercised by a board of directors, who meet the following conditions:

- (i) May include one (1) licensed physician.
 - (ii) Are residents of the ~~city~~ **county** in which the hospital is located and elected by a board of electors consisting of representatives from each organized church, religious association, labor union and fraternal, charitable, military, patriotic, and civic organization in the city.
- (3) The revenue derived from the care of persons able to pay for services and from all other sources is expended in the maintenance of the hospital and for the care of persons who are unable to pay, to the extent of the hospital's ability to assist, so that revenues are insufficient to support and maintain the hospital and enable the hospital to supply the demand for hospital care and nursing in the city and community.

SECTION 15. IC 16-23-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A governing board shall manage the hospital. The board consists of ~~the following~~ seven (7) members, all of whom must be qualified voters of the county in which the hospital is located.

- ~~(1) Three (3) members must be residents of the city.~~
- ~~(2) Three (3) members must be residents of the county living outside the corporate limits of the city.~~
- ~~(3) The seventh member may reside either inside or outside the city.~~
- ~~(b) Not more than four (4) members may be affiliated with one (1) political party.~~
- ~~(c)~~ **(b)** One (1) or two (2) of the members ~~must~~ **may** be a licensed and practicing physician. One (1) member ~~must~~ **may** be a registered nurse.
- ~~(d)~~ **(c)** The governing board is a separate legal entity under the name and style of "Board of Directors of _____ Hospital, _____, Indiana".

SECTION 16. IC 16-23-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. **(a)** The governing board shall do the following:

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- (1) Control and manage the city hospital.
- (2) Make and establish all necessary or proper bylaws and rules for the maintenance and operation of the hospital.
- (3) Fix reasonable rates to patients for rooms, care, treatment, and service that are necessary or proper to fulfill the purposes and functions of the hospital.

(b) In addition to IC 5-14-1.5-6.1(b), a hospital organized or operated under this article may hold executive sessions to do any of the following:

- (1) Discuss and prepare bids, proposals, or arrangements that will be competitively awarded among health care providers.**
- (2) Discuss recruitment of health care providers.**
- (3) Discuss and prepare competitive marketing strategies.**
- (4) Engage in strategic planning.**
- (5) Participate in a motivational retreat with staff or personnel if the hospital does not conduct any official action (as defined in IC 5-14-1.5-2(d)).**

(c) IC 5-14-1.5-5, IC 5-14-1.5-6.1, and IC 5-14-1.5-7 apply to executive sessions held under subsection (b).

(d) A hospital organized or operated under this article may hold confidential, until the information contained in the records is announced to the public, records of a proprietary nature that if revealed would place the hospital at a competitive disadvantage, including the following:

- (1) Terms and conditions of preferred provider arrangements.**
- (2) Health care provider recruitment plans.**
- (3) Competitive marketing strategies regarding new services and locations.**

SECTION 17. IC 16-23-1-19.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19.5. The governing board of a hospital organized or operated under this article may enter into a group purchasing agreement to purchase medical malpractice insurance with the following:

- (1) One (1) or more hospitals organized or operated under this article.**
- (2) One (1) or more hospitals organized or operated under IC 16-22.**

SECTION 18. An emergency is declared for this act.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Approved: _____

Governor of the State of Indiana

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